

CITRUS COUNTY SHERIFF’S OFFICE		MIKE PRENDERGAST, SHERIFF	
General Order 651.01 RISK PROTECTION ORDERS			
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I. PURPOSE

The purpose of this policy, in accordance with Florida Statutes, is to reduce deaths and injuries as a result of certain individuals’ use of firearms while respecting constitutional rights by providing a judicial procedure for sworn members of the Sheriff’s Office to obtain a Risk Protection Order that temporarily restricts a person’s access to firearms and ammunition. The process established by F.S.S. 790.401, is intended to apply only to situations in which the person poses a significant danger of harming himself or herself or others by possessing a firearm or ammunition and to include standards and safeguards to protect the rights of respondents and due process of law.

II. SCOPE

This general order shall apply to all sworn members and employees.

III. DISCUSSION

In accordance with Florida Statute 790.401, the Sheriff’s Office may seek to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms or ammunition by allowing deputies to obtain a court order when there is demonstrated evidence that a person poses a significant danger to himself or herself or others, including significant danger as a result of a mental health crisis or violent behavior.

IV. POLICY

It will be the policy of the Sheriff’s Office to evaluate and conduct a threat assessment on any person who may potentially pose a risk of harm to themselves or others due to mental illness and/or any creditable threats of violence. If the assessment reveals the subject owns or possesses firearms and/or ammunitions, while meeting the criteria under F.S.S. 790.401, the Sheriff’s Office shall make a petition to the Circuit Court for an ex parte Risk Protection Order.

V. DEFINITIONS

- A. PETITIONER- a law enforcement officer or a law enforcement agency that petitions a court for a Risk Protection Order.
- B. RESPONDENT- the individual who is identified as the respondent in a petition for a Risk Protection Order
- C. E-FILING- the service that allows authorized users, or filers, to submit court documents to the Clerk of Court electronically.
- D. E-PORTAL- the electronic program that allows entry to managing court document submissions to the Clerk of Court. The E-Portal provides E-Filing capability to filers with a single statewide login.
- E. FLORIDA CRIME INFORMATION CENTER (FCIC) - Statewide computer network administered by the Florida Department of Law Enforcement (FDLE). This system is used to access persons' files and various databases used for criminal justice purposes.
- F. RISK PROTECTION ORDER (RPO)- a temporary ex parte order or a final order that temporarily restricts a person's access to firearms and ammunition. This order is valid and enforceable in all counties of the state of Florida.
- G. THREAT ASSESSMENT- the preventative act of gathering and assessing information about a person(s) who may pose a risk of violence or harm to themselves and/or others. Risk factors should be evaluated to include identifying information, background information, and information about the subject's current situation and circumstances. Identifying information should include name, physical description, date of birth, identification numbers, etc. Background information can include residences, education, military and employment history, history of violence and criminal behavior, mental health/substance abuse history, a relationship history, as well as information on the subject's expertise and use of weapons, history of grievances, and history of harassing others. Current life information may include stability of living and employment situations, nature and quality of relationships and personal support, recent losses, pending crises or changes in circumstances, hopelessness, desperation, and any "downward" progression in social, occupation, or psychological functioning.

VI. PROCEDURE

A. DETERMINATION OF NEED FOR A RISK PROTECTION ORDER

1. An application requesting a Risk Protection order will be completed when a certified law enforcement officer determines that a person is to be committed to a receiving facility under the Baker Act criteria and that person is deemed to be a danger to themselves or others AND has made credible threats of violence against another person and is in possession of firearms or ammunition, or
2. Demonstrated evidence exists that a person poses a significant danger of causing personal injury to themselves , or others, by having a firearm or any ammunition in their custody or control AND has made credible threats.
3. A threat assessment will be documented to determine the need for an immediate emergency or routine filing of the Risk Protection Order petition. A supervisor shall review the threat assessment and petition prior to filing.

B. BAKER ACTED SUBJECTS AND RISK PROTECTION ORDERS

1. If the Baker Act subject, while at their residence, is in possession of firearms or ammunition at the time of custody or at the time a court ordered Baker Act is served, AND has made credible threats of violence against another person, law enforcement will request for voluntary consent to seize and hold all firearms or ammunition in their possession. If firearms and ammunition are seized via consent, a receipt will be provided to the subject. Seizure will be noted in the RPO affidavit.
 - a) The subject may elect to transfer all firearms and ammunition they have in their possession to another person who is willing to receive the firearms and ammunition. The Sheriff's Office will allow such a transfer only if it is determined that the chosen recipient is eligible to own or possess a firearm and ammunition and signs a receipt and waiver attesting not to transfer the firearms or ammunition back to the subject until the risk protection order against the subject is vacated or ends without extension. Transference of firearms and ammunition will be noted in the RPO affidavit.
 - b) If the subject taken into custody refuses consent to seize, or denies ownership of firearms or ammunition, and law enforcement has articulable facts that lead them to believe the subject does possess firearms or ammunition, law enforcement will apply for an affidavit for a RPO.
2. Affidavits for RPOs will be submitted by the end of the shift. Copies of the receipts for all firearms and ammunition transferred to a third party or seized by law enforcement will accompany the affidavit.

C. APPLICATION FOR A RISK PROTECTION ORDER

The Risk Protection Order may be initiated by any deputy when deemed necessary after consultation with their supervisor. A packet shall be completed in compliance with the procedures set forth in VI. B. 3. An ex parte petition for a Risk Protection Order will be filed by a Detective, Sergeant, or above on behalf of the Citrus County Sheriff's Office. This task will normally be assigned by a supervisor of the division handling the case.

1. The petition must be filed in Citrus County or the county where the Respondent resides.
2. The petition will be completed on Florida Supreme Court approved forms and filed with the appropriate Clerk of the Court. Preference will be given to filing the petition in Citrus County, FL.
 - a. During regular business hours the petition will be filed through the Clerk of the Court.
 - 1) Schedule a date and time with the Judicial Assistant of the assigned judge to present the ex parte RPO petition.
 - 2) The detective or supervisor will ensure the entire petition, along with applicable forms, will be made available to the judge for review and signature.
 - 3) The detective or supervisor signing the petition shall make arrangements to attend and, if necessary, for the initiating deputy to be available in person or by phone for presentation of testimony to the judge.
 - 4) Once completed, whether granted or denied, the ex parte RPO petition will be filed with the appropriate clerk's office and given a court case number.

- 5) Certified copies will be forwarded to the Civil and Duty Office for processing.
- b. During weekends, holidays, and after hours contact will be made with the on-call Duty Judge. The petition will be presented to the judge, along with all applicable orders for signature. Copies of the order and petition will be provided for the Duty Office and service for the Respondent. The deputy will provide all the originals the Clerk of the Court at the next business day.
 - 1) Submit the RPO package in PDF format via the Florida Courts E- Filing Portal to the Citrus County Clerk of Courts. This will be completed by a trained supervisor or trained Judicial and Juvenile Services staff member. Submission must be made by the end of your shift. Or,
 - 2) For incidents that require immediate action, complete the RPO paperwork, print, sign the paperwork, and convert it to a PDF format for submission to the duty judge via the duty judge cjnet email. Using a supervisor or Judicial and Juvenile Services staff member's assigned cjnet email, create an email to "CitrusDutyJudge@flcjn.net" with the PDF RPO documents attached. All orders (i.e. Temporary Order Granting RPO and Denial Order) need to be sent with the documents. The sender will add any relevant info to the body of the email.
 - a) After submitting the RPO paperwork to the email, either the on-duty patrol sergeant or watch commander will contact the duty judge via telephone (Duty Judge phone number provided by the Communications Section) to confirm receipt and to answer any questions that may be posed by the Duty Judge.
 - 3) Ensure "Emergency" is checked on the Case Initiation page when E-filing ANY RPO, normal or emergency.
 - 4) If the Temporary Risk Protection Order is granted, the deputy will transport the printed documents to the Duty Office for processing. The printed documents will be treated as originals, four copies will be made (service packet for the Respondent, Duty Office, Judicial Services Duty Sergeant, and Civil Office for processing), and the initiating deputy will ensure the entire RPO packet will be forwarded to the Clerk of the Court for filing. The deputy will have at least one additional deputy present to attempt service on the Respondent.
3. The petition will contain:
 - a. The name and last known address of Respondent
 - b. Respondent's date of birth and any known identifying characteristics
 - c. Names of household family members or, names of third party persons who may be at risk of violence.
 - d. Whether notice and referral to appropriate resources has been made to household members or third party persons at risk, or the steps to provide such notice or referral
 - e. An affidavit made under oath stating specific statements, actions or facts how the Respondent poses a significant danger of causing personal injury to himself or herself or others in the near future by having a firearm or any ammunition in his or her custody or control or by purchasing,

possessing, or receiving a firearm or any ammunition. Statements must be based on law enforcement's personal knowledge, not third party information.

- f. The quantities, types, and locations of all firearms and ammunition the Petitioner believes to be in the Respondent's current ownership, possession, custody, or control
 - g. Any known existing protection order(s) governing the Respondent under F.S.S. 741.30, F.S.S. 784.046, F.S.S. 784.0485, or under any other applicable statute.
 - h. The Petitioner must list the address of record on the petition as being where the appropriate law enforcement agency is located.
 - i. Disposition of any firearms discovered at scene, whether they were seized, turned over to a third party, or awaiting a search warrant.
4. The detective/supervisor who initiates the Risk Protection Order will forward an entire copy of the RPO, witness information (names, dates, addresses, and phone numbers and any other pertinent knowledge to the affected division commander as soon as possible by e-mail.
- a. The detective or supervisor will prepare the Risk Protection Order for the temporary hearing and will subpoena any witnesses, as deemed necessary, through the Clerk of the Court.
 - b. A designee of the Sheriff's choosing will represent the Sheriff's Office as the petitioner in the temporary RPO hearing. The detective or supervisor who prepared and signed the affidavit will be present for the final hearing. If the degree of complexity or public interest becomes uncharacteristic, the detective or supervisor shall contact the Bureau of Law Enforcement Operations Commander via chain- of-command prior to the hearing with the pertinent information for further direction. The Bureau of Law Enforcement Operations Commander will contact the agency contracted attorney for representation if necessary.
 - c. The Civil Office Supervisor will serve as the point of contact for the Clerk of the Court and Judiciary for notifications of the pending expiration of Risk Protection Final Orders. Civil Office personnel shall review the case and make a recommendation, in writing, to the Judicial and Juvenile Services Division Commander within 10 days of receiving the notice. The recommendation will be based on, but not limited to, additional subject activity or cases, violations of the RPO, additional RPO or injunction cases, and new law violations. The Division Commander will notify the Law Operations Commander, in writing, of the recommendation within 5 days of receiving the notice. If the decision is made to file for an extension, the Judicial and Juvenile Services Division Commander or designee will file the request via the Clerk of the Court in a timely basis and prepare for the hearing as previously outlined.

D. RISK PROTECTION ORDER SERVICE [CFA 24.06d]

- 1. Risk Protection Orders that are received by the civil office shall be assigned to a civil deputy for service. The detective or supervisor filing/requesting the Temporary Risk Protection Order should be present to serve the petition at the initial attempt. An attempt to serve shall be made as soon as possible (instanter) upon receipt of the order. It may be served any day of the week and at any time- day or night. Given the nature of this type of order, no less than two deputies will attempt to serve a Risk Protection Order.

2. When out-of-county Risk Protection Orders are received after normal business hours, or when civil deputies are not available, the receiving employee/member (civil, EOC or duty office) will contact the watch commander/designee.
3. The watch commander/designee will assign at least two deputies to serve the Risk Protection Order in compliance with this policy.
4. Upon serving the Risk Protection Order, the deputies will carry out the orders of the court. To include:
 - a. Taking possession of firearms, ammunition, and any license to carry a concealed weapon or firearm. Firearms, ammunition, and licenses will be taken to the evidence office for storage and released pursuant to court order or termination by date of the Risk Protection Order. Normal property receipt procedures will apply. The Respondent will be provided a copy of the Property Receipt. *[CFA 24.06a/b]*
 - b. A member of the Records Section shall provide the Clerk of the Court a copy of the completed Property Receipt within 72 hours of submission for case filing. If the RPO originates from another county in the state of Florida, a member of the Records Section will contact that county's Clerk of Court to ensure filing of the Property Receipt within 72 hours.
 - c. If a person other than the respondent claims title to any firearms or ammunition surrendered pursuant to the Risk Protection Order and he or she is determined by the deputies to be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to him or her, if:
[CFA 24.06c]
 - 1) The lawful owner agrees to store the firearm or ammunition in a manner such that the respondent does not have access to or control of the firearm or ammunition;
 - 2) The firearm or ammunition is not otherwise unlawfully possessed by the owner. The deputy shall determine the lawful owner is eligible to own or possess a firearm and ammunition under federal and state law after confirmation through a background check.
 - 3) The deputy will document the lawful owner's name, address, date of birth, and firearms and/or ammunition which were turned over in an agency report.
5. The deputy shall indicate on the civil service worksheet:
 - a. The date and time of service or attempted service.
 - b. The name of the serving deputy and I.D. Number (printed and legible).
 - c. The reason for non-service, if applicable.
 - d. The method of service. (Only personal service is permitted)
 - e. The location of service or attempted service.
 - f. The name of the person served.
6. The date, time, and I.D. number of the deputy/officer will also be recorded on the certified copy of the Risk Protection Order that is provided to the Respondent.

7. If service is successful, the worksheet will be immediately forwarded to the civil office for recording and return to the court. The worksheets may be delivered to the Civil Office, Duty Office, Civil box at EOC, or Civil box at the Operations Center. If the service is unsuccessful, the worksheet will remain attached. The unserved Risk Protection Order will be returned to the office where originated.
8. If a Risk Protection Order has been served after normal business hours, the civil office will notify any civil deputies currently assigned to serve the order. This is to prevent duplicate service.
9. Upon service of a Risk Protection Order, the deputy will notify the Duty Office of the date and time of service (by phone or Teletype). If the Risk Protection Order is from another county, the deputy will notify Teletype with the date, time, court case number, and originating county for transmittal. The Communications Officer will contact the originating county with the service information provided.

E. NOTIFICATION OF SERVICE

1. When a Citrus County Risk Protection Order is served, the serving deputy will provide the Duty Office the date, time, and Respondent served. If the service worksheet is available, a copy should be provided to the duty office. When another county's Risk Protection Order is served, the serving deputy will provide EOC the originating county, date, time, and respondent served. EOC will then send a teletype message to the listed county.

F. RISK PROTECTION ORDERS ISSUED BY CITRUS COUNTY COURTS – ROUTINE PROCESSING

1. Upon issuance of a Risk Protection Order, the Clerk of Court or Civil Office may transmit facsimile copies or scanned documents by email of the order to the duty office. Duty office personnel may create an Aegis file entry, based on this information.
2. Upon receipt of a copy of a Risk Protection Order, the receiving member will clock in the order with a date/time stamp and review it to ensure all documents needed for Aegis/FCIC/NCIC entry are present and there are no obvious errors. An example of an obvious error would be a judge's signature missing. The Aegis entry will then be created and forwarded to FCIC/NCIC as soon as possible, as required by statute. Entries and updates should be prompt. If FCIC/NCIC is not in operation, they will be entered as soon as the system returns to service.
3. The receiving member/employee will check detention facility records to see if the Respondent is in custody. If so, they should be served as soon as possible by available members.
4. All amending or supplementary court orders (or copies thereof) regarding the Risk Protection Order on file at the duty office will be forwarded to the duty office without delay. Additionally, facsimile/emailed copies may be transmitted to the duty office when necessary.

G. RISK PROTECTION ORDERS ISSUED BY COURTS OF OTHER JURISDICTIONS

1. Copies (usable for service) of Risk Protection Orders issued in other Florida counties may be sent to the duty office (via the civil office) and made accessible to

the duty officers and members.

2. A Risk Protection Order originating from another county will be confirmed as active prior to attempting service.
3. If the order is not served it will be returned to the civil office for return to the sending county after the date of hearing has past.
4. If served, the service worksheet will be sent to the civil office for return to the originating agency.
5. After service, a file is to be maintained in the duty office for the Risk Protection Order for informational purposes only. (The issuing county is responsible for confirmation and file maintenance). Once the order has been expired or vacated, the file may be discontinued.

H. ACTIVE FILES

1. Active Risk Protection Orders will be maintained in a file system at the duty office that is accessible to members at all times. A file will be created upon receipt of any documentation that a Risk Protection Order has been issued.
2. Filing will be alphabetical, by the Respondent's last name. A master and computer entry will be created and maintained for each Respondent.
3. All files will be kept in a manner that prevents unauthorized access. The files will be kept in the duty office near the duty desk for quick access. The office shall be locked when not occupied by members.
4. The files will contain the Risk Protection Order, any orders of continuation or modification, related correspondence, and evidence of service. Copies of service worksheets or teletypes indicating service will be attached to the front of a copy of the Risk Protection Order. This copy will serve as the primary document for confirmations. The following information will be recorded on the copy of the order, upon receipt, and as information is available:
 - a. The RMS file number.
 - b. The name of the serving deputy or officer, and agency, if different.
 - c. The date and time of service.
 - d. The initial date of expiration, if applicable.
 - e. The revised date of expiration, if applicable
 - f. The name of the member/employee canceling the entry.

A stamp will be provided for the information. The stamp will be placed on the front sheet of the RPO upon arrival at the duty office.

I. COMPUTER ENTRY [CFA 24.06f]

1. Initial entries to the RMS/FCIC/NCIC system for Risk Protection Orders will be based upon information contained in the order. Any additional information must be documented and placed in the file when entered.

2. Information regarding status of service, expiration date, and the court status (dismissed or active) will be updated as soon as possible after the information is received.
3. FCIC/NCIC entries and updates will be entered in accordance to FCIC/NCIC policies and technical bulletins.
4. When orders are received extending a Risk Protection Order, the RMS/FCIC/NCIC file will be modified by duty office personnel to reflect an expiration date. The extended dates will be recorded on the face of the order (where stamped).
5. When FCIC/NCIC entry is not possible due to insufficient entry information, the Risk Protection Order will still be entered and maintained in RMS.
6. Only Risk Protection Orders issued by Citrus will be entered in FCIC/NCIC by this agency.
7. Sufficient information will be entered to indicate to or direct administrative messages (through FCIC/NCIC) to the duty office.
8. Active out-of-county Risk Protection Orders with Respondents residing in Citrus County will be entered into the agency's records management system.

J. CONFIRMATION OF RISK PROTECTION ORDERS

1. All inquiries regarding Risk Protection Orders shall be confirmed, prior to arrest or other enforceable actions, by physically checking the injunction in the file. The entire file shall be checked to ensure the most recent and accurate information is provided. All information on file shall be made available to criminal justice personnel as needed.
2. The termination date will be checked to make sure the order is still active.
3. When checking for local warrants, the inquiring person (law enforcement personnel only) shall be informed of any existing Risk Protection Orders on file and the status.
4. Confirmation may be made by telephone, facsimile, radio or FCIC message. The confirmation method should be indicated in any reports or affidavits completed.
5. EOC personnel staff should initiate a routine computer check prior to contacting the duty office.
6. The duty office will refer confirmation requests for Risk Protection Orders issued in other jurisdictions to the Sheriff's Office or entering agency in those jurisdictions.
7. The duty office should be contacted direct for details and conditions of the Risk Protection Order.
8. If law enforcement agencies in other jurisdictions request confirmation, it will be provided by teletype and a copy may be faxed.
9. If an arrest is made for a violation of a Risk Protection Order, a copy of the order shall be made available to accompany the arrest affidavit (for first appearance).

K. FCIC/NCIC CANCELLATION

1. The FCIC/NCIC entry shall be canceled only after the termination date has been reached, the Risk Protection Order has been recalled or dismissed, or otherwise is invalid.
2. Cancellation shall be completed by the duty officer or duty office clerical personnel.

L. ARRESTS

A person who has in his or her custody or control a firearm or any ammunition or who purchases, possesses, or receives a firearm or any ammunition with knowledge that he or she is prohibited from doing so by a Risk Protection Order commits a felony of the third degree, punishable as provided in Florida Statutes 775.082, 775.083, or 775.084.

M. RETURN, TRANSFER, AND DISPOSAL OF FIREARMS, AMMUNITION, AND LICENSES *[CFA 24.06c]*

1. When a Risk Protection Order is vacated or ends without extension, the Citrus County Sheriff's Office must return any firearm(s), ammunition owned by the respondent or a license to carry a concealed weapon or firearm issued under F.S.S. 790.06, held by the Respondent, that has been surrendered or seized pursuant to the order only after confirming:

- a. The Respondent is currently eligible to own or possess firearms and ammunition under federal and state law through a background check and;
- b. Confirmation with the Citrus County Clerk of the Court that the Risk Protection Order has been vacated or has ended without extension.

The return of firearms, ammunition, and licenses shall be documented in a supplement to the original agency report. Authorization from a case agent will not be required for the return of above items when held under a RPO.

- c. The Citrus County Sheriff's Office has up to 72 hours to verify the respondent has no disqualifying event once they make formal request for the return of their firearms with the Evidence Section in person.
2. The Sheriff's Office must attempt to provide notice to any family or household members of the Respondent before the return of any surrendered firearm and ammunition owned by the Respondent. The notice shall be documented as a supplement to the original agency report. *[CFA 24.06e]*
 3. Any firearm and ammunition surrendered by a Respondent pursuant to the Risk Protection Order which remains unclaimed for 1 year by the lawful owner after an order to vacate has been issued shall be disposed of in accordance of General Order 720.00, Property Control System.
 4. A Respondent may elect to transfer all firearms and ammunition that have been surrendered to or seized by the Sheriff's Office pursuant to a Risk Protection Order to another person who is willing to receive the Respondent's firearms and ammunition. The Sheriff's Office will allow such a transfer only if it is determined that the chosen recipient:
 - a. Currently is eligible to own or possess a firearm and ammunition under federal and

state law after confirmation through a background check;

- b. Attests to storing the firearms and ammunition in a manner such that the Respondent does not have access to or control of the firearms and ammunition until the Risk Protection Order against the Respondent is vacated or ends without extension; and
- c. Attests not to transfer the firearms or ammunition back to the Respondent until the risk protection order against the Respondent is vacated or ends without extension.
- d. The person shall sign a form of attestation to the above conditions prior to receiving the firearms and ammunition. The form will be made part of the original agency report as a supplement.

N. FAILURE OF RESPONDENT TO SURRENDER FIREARMS AND/OR AMMUNITION

- 1. If a Respondent refuses to surrender any firearms and/or ammunition in their ownership or possession or the deputies executing the Risk Protection Order have probable cause to believe the Respondent has not fully complied with the surrender, after such demand has been made shall:
 - a. Secure the scene preventing reentry by the Respondent
 - b. Document in an agency report the details of the failure to surrender firearms or ammunition at the conclusion of the incident or as soon as possible.
 - c. Immediately contact their sergeant, the on-duty Watch Commander and the deputy (if necessary for additional information) who petitioned the court for the Risk Protection Order. Deputies will maintain scene security until otherwise notified by a supervisor. Additional deputies may respond as deemed necessary by the Watch Commander.
 - d. Upon conferring with the Watch Commander and petitioning deputy, a Patrol Captain will be notified (or on-call Captain, if after hours).
 - e. A search warrant may be requested, to include:
 - 1) Description of the firearms or ammunition owned by the Respondent
 - 2) The facts and circumstances that establish the probable cause belief that the Respondent has not complied with the order of the court.
 - f. Execution of the search warrant the Watch Commander shall:
 - 1) Notify the Communications Supervisor, on-duty Patrol Sergeant, and Patrol Captain (or on-call Captain, if after hours).
 - 2) Evaluate the need for additional deputies commensurate with threat assessment.
 - 3) Consider the need for SWAT or CNT based on the totality of circumstances.

VII. TRAINING

- A. Members of the agency will receive training in the application, service, legal proceedings, and Florida Statutes (F.S.S. 790.401) pertaining to Risk Protection Orders. *[CFA 24.06g]*

- Signed-

MIKE PRENDERGAST,
SHERIFF